

## Bureau of Prisons, Justice

## § 544.73

(b) *Marketable Training.* Marketable training provides specific entry-level or advanced job skills. Marketable training may include “live work”, that is, the training would result in a product or service produced by the inmate for actual use by the institution, FPI, another federal agency, or community service project.

(c) *Apprentice Training.* Apprentice training provides an inmate the opportunity to participate in training which prepares the inmate for employment in various trades through structured apprenticeship programs approved at the state and national levels by the Bureau of Apprenticeship and Training, U.S. Department of Labor.

### Subpart G [Reserved]

### Subpart H—Literacy Program

SOURCE: 62 FR 50793, Sept. 26, 1997, unless otherwise noted.

#### § 544.70 Purpose and scope.

Except as provided for in § 544.71, an inmate confined in a federal institution who does not have a verified General Educational Development (GED) credential or high school diploma is required to attend an adult literacy program for a minimum of 240 instructional hours or until a GED is achieved, whichever occurs first.

#### § 544.71 Exceptions to required literacy program participation.

(a) The following inmates are not required to attend the literacy program:

- (1) Pretrial inmates;
- (2) Inmates committed for purpose of study and observation under the provisions of 18 U.S.C. 4205(c), 4241(d), or, effective November 1, 1987, 18 U.S.C. 3552(b);
- (3) Sentenced deportable aliens;
- (4) Inmates determined by staff to be temporarily unable to participate in the literacy program due to special circumstances beyond their control (e.g., due to a medical condition, transfer on writ, on a waiting list for initial placement). Such inmates, however, shall be required to participate when the special circumstances are no longer applicable.

(b) Inmates who have been determined (on the basis of formal diagnostic assessment) to have a documented emotional, mental, or physical individual impediment to learning shall not be required to complete the literacy program beyond those achievement levels indicated as realistic by the formal diagnostic assessment.

(c) Staff shall document in the inmate's education file the specific reasons for not requiring the inmate to participate in, or to complete, the literacy program.

#### § 544.72 Incentives.

The Warden shall establish a system of incentives to encourage an inmate to obtain a GED credential.

#### § 544.73 Program participation.

(a) The Warden or designee shall assign to an education staff member the responsibility to coordinate the institution's literacy program. Initially, staff shall meet with the inmate for the purpose of enrolling the inmate in the literacy program. Subsequently, staff shall formally interview each inmate involved in the literacy program when necessary for the purpose of determining a progress assignment. Staff shall place documentation of these interviews in the inmate's education file.

(b)(1) For the purposes of 18 U.S.C. 3624, an inmate subject to the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA) or the Prison Litigation Reform Act of 1995 (PLRA) shall be deemed to be making satisfactory progress toward earning a GED credential or high school diploma unless and until the inmate receives a progress assignment confirming that:

- (i) The inmate refuses to enroll in the literacy program;
- (ii) The inmate has been found to have committed a prohibited act that occurred in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program; or
- (iii) The inmate has withdrawn from the literacy program.

(2) When an inmate subject to VCCLEA or PLRA receives a progress assignment indicating that the inmate is not making satisfactory progress,

the assignment shall be changed to indicate satisfactory progress only after the inmate is currently and continuously enrolled in a literacy program for a minimum of 240 instructional hours. Any further withdrawal or finding that the inmate has committed a prohibited act in a literacy program during the last 240 instructional hours of the inmate's most recent enrollment in the literacy program shall result in a progress assignment indicating that the inmate is again not making satisfactory progress (see paragraphs (b)(1)(ii) and (iii) of this section).

(c) At the end of 240 instructional hours, excluding sick time, furloughs, or other absences from scheduled classes, the unit team during scheduled program review sessions shall meet with the inmate to encourage continued participation in the literacy program until the inmate earns a GED credential or high school diploma. At these meetings, the inmate may elect not to continue in the literacy program, and no disciplinary action will be taken. The inmate may not discontinue this program when participation is mandated by statute.

#### § 544.74 Work assignment limitations.

These limitations on work assignment appointment and promotion apply to all inmates, including those exempted from required participation in the literacy program by § 544.71.

(a) *Appointment.* (1) An inmate who does not meet the literacy requirement may be assigned to a grade 4 position contingent upon the inmate's continued enrollment in the literacy program.

(2) An inmate ordinarily must show prior attainment of a GED credential or high school diploma in order to be considered for a commissary work assignment above minimum pay level, an institution work assignment above grade 4 compensation, or an industrial work assignment above grade four or in a non-graded incentive pay position.

(3) If labor force needs require, an inmate who does not meet the literacy requirement may be assigned to an industrial non-graded incentive pay position if the inmate is simultaneously enrolled in a literacy or related program. Withdrawal from the literacy

program shall result in termination of the assignment. Local Federal Prison Industry (FPI) management may elect to retain the reassigned inmate in an hourly rated grade 4 position.

(b) *Promotion.* An inmate ordinarily must show prior attainment of a GED credential or high school diploma to be promoted above the minimum pay level or grade in a commissary work assignment, an institutional work assignment, or an industrial work assignment. An inmate already in an assignment above the minimum pay grade who had met prior literacy requirements when approved for promotion is eligible for further promotion under the prior standard. Such inmate, however, must meet the current standard if, due to demotion based upon a poor performance appraisal, he or she needs to reapply for a promotion.

(c) *Exceptions.* The Warden may, for good cause, exempt inmates on a case-by-case basis, from the literacy requirements for work assignment appointment and promotion. Staff shall document such exemption in the inmate's education file and central file.

#### § 544.75 Disciplinary action.

As with other mandatory programs, such as work assignments, staff may take disciplinary action against an inmate lacking a GED credential or high school diploma if that inmate refuses to enroll in, and to complete, the mandatory 240 instructional hours of the literacy program.

### Subpart I—Education, Training and Leisure-Time Program Standards

SOURCE: 58 FR 65852, Dec. 16, 1993, unless otherwise noted.

#### § 544.80 Purpose and scope.

In consideration of inmate education, occupation, and leisure-time needs, the Bureau of Prisons affords inmates the opportunity to improve their knowledge and skills through academic, occupation and leisure-time activities. All institutions, except satellite camps, detention centers and metropolitan correctional centers, shall operate a full range of activities as outlined in this rule.